

"A case is moot, and hence not justiciable, if the passage of time has caused it completely to lose its character as a present, live controversy of the kind that must exist if the court is to avoid advisory opinions on abstract propositions of law." Laurence H. Tribe, American Constitutional Law S 3-11, at 83 (2d ed. 1988) (internal quotations omitted). Once a case or controversy is moot, a federal court no longer retains jurisdiction to adjudicate the merits of the case. U.S. Const. art. III, Section 2. see also U.S. Bancorp Mortgage Co. v. Bonner Mall Partnership, 513 U.S. 18, 21(1994).

Because the relief sought in the Petition -- removal from BOP custody -- has now been effectuated by BOP's release of the Petitioner on October 22, 2004, see Exhibit A, there is an absence of a live case or controversy. Accordingly, the Petition should be dismissed as moot.

CONCLUSION

There being no present case or controversy, this action should be dismissed as moot.

Respectfully submitted,

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CERTIFICATION UNDER L.R. 7.1

Pursuant to Local Rule 7.1(a)(2), since plaintiff is pro se the parties have not conferred with regard to this motion.

CERTIFICATE OF SERVICE

I hereby certify that I caused true copy of the above document to be served upon the pro se Petitioner by mail on November 8, 2005 to the most recent address provided by the United States Probation Office as follows: 118 Pearl Avenue, Revere, MA 02151

/s/ Christopher Alberto
Christopher Alberto
Assistant U.S. Attorney